THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.19505 OF 2007

Dated: 24.09.2007

Between:

V.R. Srinivasa Reddy and others

..Petitioners

And

1.Government of Andhra Pradesh,
rep., by its Principal Secretary,
Home Department, Secretariat,
Hyderabad and others.

.. Respondents.

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THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.19505 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition has been filed seeking to quash the judgment dated 27.11.2006 passed by the tribunal in O.A.No.5296 of 2006 and consequently, to set aside the memo of the 1st respondent bearing NO.30958/Legal-I/A1/2005, dated 13.7.2006 and to direct respondents 1 and 4 to fix the seniority of 1995 batch Sub-Inspectors taking into account the marks obtained by them in the respective final examination without grouping the second and subsequent batches with the petitioners in view of the change of pattern of final examination by the police academy and allow all consequential benefits including seniority and promotion to the category Inspector of Police in preference to the unofficial respondents.

The petitioners are the applicants before the tribunal. They along with others filed the above O.A., seeking a direction to declare memo, dated 13.7.2006 as illegal and arbitrary on the ground that on the O.A. filed by the 6th respondent and others seeking implementation of the Government Memo No.3119/Legal/2003-1 Home (Ser.I) dated 17.3.2003 and to consider their representation, the tribunal directed the official respondents to examine their case, pursuant to which, the 1st respondent issued the impugned memo holding that the applicants in O.A.No.1509 of 2006 are entitled to seniority along with 1995 batch of Sub-Inspectors, taking into account PTC marks into account, and that no opportunity was given to the petitioners before issuance of the impugned memo.

The tribunal having observed that the question of notice to the

applicants before alteration in the seniority does not arise any longer since the issue as to the manner in which the seniority has to be fixed is no longer res integra and that when the law has to be applied in strict sense as affirmed by the Courts of law and a past mistake is being only rectified through the memo, it would be futile to contend that a notice is required, since even after issue of such notice, the respondent-Government would not be in a position to pass any order which is dissimilar to the impugned Government memo, dismissed the O.A. Having aggrieved by the same, the petitioners filed the above writ petition.

The learned Counsel appearing for the petitioners contended that the Government has not chosen to file counter as to the memo issued by it and therefore, in the absence of such counter, the order of the tribunal is not justified and the same is liable to be set aside.

Perused the entire material available on record.

As can be seen from the material on record, it is obvious that the official respondents did not file counter answering the allegations made in the O.A. In that view of the matter and in view of the submission of the learned Counsel for the petitioners, without expressing any opinion on the merits of the case, We feel it just and proper to remand the matter to the tribunal to dispose of the matter afresh after giving an opportunity to the Government to file counter within a period of four weeks from the date of receipt of a copy of the order. On filing such counter, the tribunal shall dispose of the O.A., in accordance with law, within four months thereafter. It is made clear that since the memo impugned is of the year 2006, it would suffice to say that the promotions and fixations of interse seniority, if any made in pursuance of the said memo, shall be subject to the result of the O.A.

Subject to the above observations, the writ petition is allowed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 24.09.2007

NN/Gurc.

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO.19505 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 24.09.2007